

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DWAYNE L. BRENTSON and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

*Docket No. 98-1622; Submitted on the Record;
Issued December 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he developed a right shoulder condition due to factors of his federal employment.

The Board has duly reviewed the case on appeal and finds it not in posture for decision.

On January 17, 1997 appellant, then a 32-year-old letter carrier, filed a notice of occupational disease alleging that he developed a right shoulder condition due to lifting and a carrying a mailbag and casing mail. The Office of Workers' Compensation Programs denied appellant's claim by decision dated May 12, 1997 finding that as he had submitted no medical evidence, he had not established fact of injury. Appellant requested an oral hearing and by decision dated March 5 and finalized March 6, 1998, the hearing representative denied appellant's claim.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

In this case, appellant initially attributed his condition to carrying a mailbag and casing mail. The employing establishment noted that appellant had not performed full duty for several years due to his alleged employment injuries. Beginning January 20, 1997, appellant was required to case mail at a modified distribution case with lifting up to one pound and intermittent reaching above shoulder level no more than two hours per day. Appellant worked from 9:00 p.m. to 3:00 a.m. four nights a week and from 9:00 p.m. to 5:30 a.m. two nights. The employing establishment noted that appellant was issued three disciplinary actions for unscheduled absences, for taking unscheduled breaks, for failure to give fair days labor for fair days pay. The employing establishment also asserted that appellant had exaggerated the amount of work he performed as each tray of mail held only 500 pieces.

In a report dated July 18, 1997, Dr. Kevin L. Trangle, a physician Board-certified in physical medicine and rehabilitation, noted that appellant delivered mail from 1987 through 1992. He noted that appellant stated he worked six hours a day casing mail beginning February 1, 1997. Dr. Trangle noted that appellant cased six trays of mail per day, performing 3,000 to 6,000 repetitive motions per day using his right shoulder. He provided physical findings and diagnosed tendinitis of the rotator cuff. Dr. Trangle stated, "It also appears quite likely that it is due to the repetitive activity he is performing with his right arm by casing mail."

Appellant has provided medical evidence diagnosing right shoulder tendinitis. He has also attributed this condition to an accepted factor of his federal employment, casing mail. Finally, Dr. Trangle opined that appellant's shoulder condition was causally related to casing mail. While this report is not sufficient to meet appellant's burden of proof, as Dr. Trangle did not provide medical rationale supporting his opinion, it does raise an uncontroverted inference of causal relation between appellant's accepted employment duties and his diagnosed condition and is sufficient to require the Office to undertake further development of appellant's claim.²

On remand, the Office should refer appellant, a statement of accepted facts noting appellant's job duties and a list of specific questions to an appropriate specialist to determine the causal relationship between appellant's diagnosed condition and his employment duties. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

² *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

The decision of the Office of Workers' Compensation Programs dated March 6, 1998 is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
December 3, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member